



CALIFORNIA STATE PERSONNEL BOARD

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ARNOLD SCHWARZENEGGER, Governor



DATE: February 1, 2005
TO: ALL INTERESTED PARTIES
FROM: STATE PERSONNEL BOARD --- Appeals Division

SUBJECT: Board Meeting of February 8-9, 2005

PLEASE TAKE NOTICE the supporting materials for items #5, 9, 11, and 16 were inadvertently omitted from the January 28, 2005 mailing of the February 8-9, 2005 Board Meeting Agenda. The materials are enclosed herein and should be incorporated with all other materials relevant to the February 8-9, 2005 Board Meeting.

The materials are also available from the Secretariat's Office, State Personnel Board, 801 Capitol Mall, MS 22, Sacramento, CA 95814 or by calling (916) 653-0429 or TDD (916) 654-2360, or the Internet at: <http://www.spb.ca.gov/calendar.htm>

Should you have any questions regarding this Notice, please contact staff in the Secretariat's Office at the address or telephone numbers above.

S. RODRIGUEZ
Secretariat's Office

Enclosure

STATE PERSONNEL BOARD CALENDAR



FEBRUARY 8-9, 2005

(ADDENDUM - SUPPORTING MATERIALS)

LOS ANGELES, CALIFORNIA

ITEM 5

(Cal. 2/8/05)

TO: Members
 State Personnel Board

FROM: State Personnel Board - Legislative Office

SUBJECT: LEGISLATION

The status of major legislation being followed for impact on Board programs and the general administration of the State Civil Service Merit System is detailed in the attached report.

Any legislative action that takes place after the printing of this report, which requires discussion with the Board, will be covered during the Board meeting.

Please contact me directly should you have any questions or comments regarding this report. I can be reached at (916) 653-0453.

Sherry Hicks
Director of Legislation

Attachment

**STATE PERSONNEL BOARD
LEGISLATIVE TRACKING
REPORT
2005-06 SESSION**

**Status as of
January 25, 2005**



ASSEMBLY BILLS (Tracking)

BILL/ AUTHOR	BOARD POSITION	SUBJECT	STATUS OF BILL
AB 38		AB 38 proposes suspending the salaries of specific state board and commission members for the fiscal years 2005 through 2009. The State Personnel Board is one of those boards that would not receive salaries for those fiscal years.	Assembly Business and Professions Committee
AB 124		This bill would repeal requirements to annually establish employment goals and timetables based on race or gender that were invalidated by the California Court of Appeal in <i>Connerly v. State Personnel Board</i> , and retitle Chapter 12 of Part 2, Division 5, Title 2 of the Government Code from "Affirmative Action Program" to "State Equal Employment Opportunity Program". In addition, it would clarify and strengthen equal employment opportunity requirements.	Not assigned.

**ATTACHMENT 1 (NAMELY AB 38) FOR THIS ITEM
CAN BE PRINTED FROM THE FOLLOWING WEBSITE**

http://www.leginfo.ca.gov/pub/bill/asm/ab_0001-0050/ab_38_bill_20041206_introduced.pdf

**ATTACHMENT 2 (NAMELY AB 124) FOR THIS ITEM
CAN BE PRINTED FROM THE FOLLOWING WEBSITE**

http://www.leginfo.ca.gov/pub/bill/asm/ab_0101-0150/ab_124_bill_20050113_introduced.pdf

ITEM 9

(Cal. 2/8-9/05)

TO: STATE PERSONNEL BOARD

FROM: DAPHNE BALDWIN, Manager
Policy Division

REVIEWED BY: LAURA AGUILERA, Assistant Executive Officer
Executive Office

CAROL ONG, Manager
Policy Development

SUBJECT: PROPOSAL TO DESIGNATE THE CALIFORNIA HIGHWAY PATROL'S
AUTOMOTIVE TECHNICIAN II CLASSIFICATION AS "SENSITIVE" FOR
THE PURPOSE OF PRE-EMPLOYMENT DRUG TESTING AND
REVISE THE MINIMUM QUALIFICATIONS TO INCLUDE A PRE-
EMPLOYMENT DRUG TESTING REQUIREMENT

REASON FOR HEARING:

The California Highway Patrol (CHP) requests that the Automotive Technician II (AT II) classification be designated as "sensitive" for the purpose of pre-employment drug testing and that the minimum qualifications for the class be amended to reflect this change. Under California Code of Regulations (2CCR) § 213, a Board hearing is required to determine whether drug testing requirements are met. This hearing is to allow the Board to hear from CHP and other interested members of the public before reaching a final decision.

BACKGROUND:

During the mid-1990s the Department of Personnel Administration (DPA) solicited input from departments and unions to determine which classifications fulfilled the criteria to be designated "sensitive" for the purpose of pre-employment drug testing. A list of classifications that met the criteria was established, agreed to by the union, and documentation was submitted to SPB to revise the minimum qualifications for impacted classes.

On September 4, 1996, SPB approved the "sensitive" designation and specification revisions for the following CHP classes:

Communications Operator I, California Highway Patrol
Communications Operator II, California Highway Patrol
Motor Carrier Specialist I, California Highway Patrol

Automotive Technician Trainee
Automotive Technician I
Motorcycle Mechanic
School Pupil Transportation Safety Coordinator
Gunsmith

In 1996, CHP limited the “sensitive” designation for the Automotive Technician series specification to the Automotive Technician Trainee (ATT) and Automotive Technician I (AT I) because the AT II was examined for on a promotional only-- *rather than an open basis*. In other words, all candidates eligible to promote to AT II would have already taken and passed the drug screening requirement in their existing positions.

On April 8, 2003, SPB approved specification revisions that updated significant distinctions between the AT Motor Transport positions and AT field positions. CHP now recruits AT IIs on an open basis for their positions located in CHP field settings. Because the basis for the examination competition changed from promotional to open, CHP requests that the Board designate the AT II class as “sensitive” and approve a change in the minimum qualifications for the class to include a pre-employment drug testing requirement. (A copy of the specification is attached hereto as Attachment 1). This will allow CHP to conduct pre-employment drug testing of those candidates that are coming from outside--*who are not currently in a class requiring drug testing*--prior to being appointed to the AT II classification.

CONSULTED WITH:

Bob Giannoni, California Highway Patrol
Carl F. Lord, California Highway Patrol
Dora Aguilar, California Highway Patrol
Sydney Perry, Department of Personnel Administration
Jennifer Roche, State Personnel Board
Daphne Baldwin, State Personnel Board
Ron Glick, IUOE

In accordance with the terms of the DPA/IUOE contract, DPA has notified the union in writing of this proposal.

NEED FOR PROPOSED REVISIONS:

SPB may amend minimum qualifications and revise classifications pursuant to Government Code (GC) § 18802. Additionally, 2CCR § 213 specifies the conditions under which pre-employment drug testing may be required. The regulation requires the employer to document the sensitivity of the classes and the consequences of drug-related behavior according to the following criteria:

(1) The duties involve a greater than normal level of trust for, responsibility for or impact on the health and safety of others, and

(2) errors in judgment, inattentiveness, or diminished coordination, dexterity or composure while performing the duties could clearly result in mistakes that would endanger the health and safety of others; and

(3) employees in these positions work with such independence that it cannot be safely assumed that mistakes such as those described in (2) could be prevented by a supervisor or another employee.

The information listed below addresses the requirements listed in 2CCR § 213.

- (1) The AT IIs have a greater than normal level of trust as they have independent decision making authority regarding the diagnosis, repair, and general maintenance of enforcement vehicles. Enforcement vehicles must be kept in excellent working order and be able to respond quickly to calls, run effectively shift after shift without breakdowns, and withstand high speed enforcement driving and inclement weather conditions. As such, a reliable and safe vehicle can be the difference between life and death for both the officer and the motoring public.

The AT IIs in the field at Area and Division offices maintain the fleet of assigned vehicles. They are responsible for the maintenance and safe operating condition of CHP vehicles used for road patrol duties by CHP officers. Employees in this classification perform work involved in the following functions: fleet maintenance duties involving inspection, diagnosis, adjustment, mechanical, and electrical repair, scheduling a fleet of departmental vehicles for maintenance and repair by private vendors; and maintenance of necessary vehicle fleet records, including safety inspections and vehicle testing.

- (2) The consequences of error resulting from an individual being under the influence could endanger the health and safety of officers and the public. This is especially true for the AT IIs as they are responsible for the inspection, maintenance, and safe operating condition of all CHP vehicles used for road patrol duties by CHP officers.

It is necessary to screen at the pre-employment level to identify persons who are impaired by drugs to protect other workers and the general public from accidents and injuries that their inattentiveness may cause; and to maintain a safe, healthful work environment free of illegal drug use.

- (3) AT II personnel are assigned throughout CHP in the field at Area and Division offices, and the Fleet Operations Section. All CHP offices, except the largest ones, have one AT II who works alone and makes independent decisions as to vehicle maintenance. Large CHP offices may have two AT IIs; however, they routinely work separate shifts as CHP is a 24-hour operation, thus ensuring that vehicle maintenance is covered for multiple shifts.

Employees working as an AT II must be able to, when needed, make independent decisions in times of emergency and act without the guidance of a supervisor and/or another employee. An AT II impaired by drug usage would not

be able to make appropriate decisions regarding vehicle safety and repair, thereby creating situations with serious and/or life threatening consequences for both law enforcement personnel as well as the public they serve.

APPLICABLE LAW:

Government Code (GC) § 18802 provides in part:

From time to time as it deems necessary, the board may establish additional classes and divide, combine, alter, or abolish existing classes. In establishing, altering, or abolishing classes, the board shall consider the recommendations of the Department of Personnel Administration...

California Code of Regulations (2CCR) § 213 provides:

An appointing power may conduct drug testing of applicants for a class only when:

- (1) The duties involve a greater than normal level of trust for, responsibility for or impact on the health and safety of others, and
 - (2) errors in judgment, inattentiveness, or diminished coordination, dexterity or composure while performing the duties could clearly result in mistakes that would endanger the health and safety of others; and
 - (3) employees in these positions work with such independence that it cannot be safely assumed that mistakes such as those described in (2) could be prevented by a supervisor or another employee.
- (b) The board concludes after a public hearing that the appointing power has adequately documented the sensitivity of the class and the consequences of drug-related behavior and that drug testing is, therefore, job related for the class; and
- (c) As a result of (a) and (b) above, the board approves the inclusion of a requirement of drug testing in the minimum qualifications for the class.

ISSUES:

The following issues are before the Board for review:

Should the Board exercise its authority pursuant to G.C. § 18802 and 2CCR § 213 to:

1. Designate the Automotive Technician II classification as “sensitive” for the purpose of pre-employment drug testing
2. Revise the minimum qualifications for the California Highway Patrol’s Automotive Technician II classification for the purpose of pre-employment drug testing

STAFF'S RECOMMENDATION:

1. That the Automotive Technician II classification be designated "sensitive" pursuant to the California Code of Regulations (2CCR) § 213 for the purpose of pre-employment drug testing.
2. That the proposed revised specification for the Automotive Technician II classification pursuant to Government Code § 18802 as shown in this calendar be adopted.

CALIFORNIA STATE PERSONNEL BOARD

SPECIFICATION

AUTOMOTIVE TECHNICIAN
Series Specification
(Established July 25, 1973)

SCOPE

This series specification describes four classes which perform automotive inspection, installation, and servicing duties.

<u>Schem</u> <u>Code</u>	<u>Class</u> <u>Code</u>	<u>Class</u>
QK69	6827	Automotive Technician Trainee
QK62	6832	Automotive Technician I
QK66	6830	Automotive Technician II
QK68	6829	Automotive Technician III

DEFINITION OF SERIES

The Automotive Technician series of classes describes work involved in the performance of the following functions: fleet maintenance duties involving inspection, diagnosis, adjustment, mechanical and electrical repair, scheduling of a fleet of vehicles for maintenance and repair by private vendors, and maintenance of necessary vehicle fleet records. Equipment installation duties involve comprehensive safety inspection and testing of new vehicles, assembly, installation, removal and repair of special equipment, reconditioning of used vehicles to prepare them for sale, and conducting sales of vehicles. In addition, incumbents are expected to do other related work.

ENTRY LEVELS

Entry to this series may be from the class of Service Assistant (Automotive) or from outside of State service.

FACTORS AFFECTING POSITION ALLOCATION

Level of difficulty, complexity of assigned duties, independence of action and decision, degree of supervision received, and degree of supervision exercised serve as differentiating factors between individual classes.

DEFINITION OF LEVELS

AUTOMOTIVE TECHNICIAN TRAINEE

This is the trainee level for this series. Under close supervision, incumbents perform a variety of duties in a varied number of work settings such as: assisting an Automotive Technician I in maintaining a fleet of vehicles or equipping new vehicles and stripping used vehicles of specialized equipment. Successful performance of many of the duties performed by this class require incumbents to crawl underneath a vehicle/down under the dashboard/into the trunk; lift and carry tires up to 60 pounds in weight; and work in varying, and sometimes extreme, temperatures.

AUTOMOTIVE TECHNICIAN I

This is the journey person level. Incumbents assemble, install, repair, or remove special enforcement and emergency equipment; and do other related work. Successful performance of many of the duties performed by this class require incumbents to crawl underneath a vehicle/down under the dashboard/into the trunk; lift and carry tires up to 60 pounds in weight; and work in varying, and sometimes extreme, temperatures. Incumbents may also be required to act as leadpersons to review and/or oversee work performed by other automotive maintenance and repair personnel.

AUTOMOTIVE TECHNICIAN II

This is the lead and advanced journey person level. Incumbents perform in one of the following work settings: (1) act as leadpersons to oversee the work of two or more journey persons and subordinates in maintaining a large fleet of vehicles; (2) maintain a fleet of vehicles; perform preventative maintenance; schedule and verify maintenance and repair; make mechanical and electrical repairs and adjustments; diagnose and inspect motor vehicles and accessories for needed repairs; secure and maintain both manual and computer records on maintenance and servicing of a fleet of vehicles; arrange for disposal of hazardous materials; interpret repair manuals and related materials; maintain tools and equipment; order and maintain inventory of automotive parts and supplies; and (3) oversee equipment installation including the assembly, installation, removal and repair of special enforcement and emergency equipment on motor vehicles, recondition used vehicles, and perform the more complex installation functions including fabrication of new equipment installation techniques. Successful performance of many of the duties performed by this class require incumbents to crawl underneath a vehicle/down under the dashboard/into the trunk; lift and carry tires up to 60 pounds in weight; and work in varying, and sometimes extreme, temperatures.

AUTOMOTIVE TECHNICIAN III

This is the first and highest level supervisor. Incumbents work under general direction in charge of various shop operations connected with the installation, removal, and renovation of enforcement and emergency

equipment on motor vehicles. Incumbents exercise supervision through Automotive Technicians II.

MINIMUM QUALIFICATIONS

AUTOMOTIVE TECHNICIAN TRAINEE

Either I

In the California state service, one year of experience performing the duties of a Service Assistant (Automotive).

Or II

One year of experience in servicing and repairing motor vehicles in a garage, motor vehicle agency, or other major vehicle repair facility. (College or trade school education in automotive mechanics or automotive engineering may be substituted for the required experience on a year-for-year basis.) (Applicants who are substituting education for experience and are within 15 semester units or 22 1/2 quarter units of completing the education requirement will be admitted to the examination but must satisfactorily complete the required education before they can be considered eligible for appointment.)

AUTOMOTIVE TECHNICIAN I

Either I

In the California state service, one year of experience performing duties in automotive service or repair at a level not less than an Automotive Technician Trainee. (Applicants who have completed six months of the required experience will be admitted to the examination but must satisfactorily complete the required experience before they can be considered eligible for appointment.)

Or II

Two years of experience in servicing and repairing motor vehicles in a garage, motor vehicle agency, or other major vehicle repair facility. (College or trade school education in automotive mechanics or automotive engineering may be substituted for the required experience on a year-for-year basis.) (Applicants who are substituting education for experience and are within 15 semester units or 22 1/2 quarter units of completing the education requirement will be admitted to the examination but must satisfactorily complete the required education before they can be considered eligible for appointment.)

AUTOMOTIVE TECHNICIAN II

Either I

In the California state service, one year of experience performing the duties of an Automotive Technician I. (Promotional candidates who are within six months of satisfying the experience requirement of this class will be admitted to the examination, but they must fully meet the experience requirement before being eligible for appointment.)

Or II

Three years of experience in maintenance of motor vehicles either: (a) in a major vehicle repair facility; (b) an automobile agency; or (c) a garage. Experience shall have included at least one year scheduling the servicing of vehicles, or experience in the installation, adjustment, or repair of specialized automotive electrical accessories or equipment. (College or trade school education in automotive mechanics or automotive engineering may be substituted for the required general experience on a year-for-year basis.)

AUTOMOTIVE TECHNICIAN III

Either I

In the California state service, one year of experience performing the duties of an Automotive Technician II.

Or II

Four years of experience in automotive equipment repair, at least two years of which shall have included supervisory responsibility for the installation, adjustment, or repair of specialized automotive electrical accessories or equipment. (College or trade school education in automotive mechanics or automotive engineering may be substituted for the required general experience on a year-for-year basis.)

KNOWLEDGE AND ABILITIES

AUTOMOTIVE TECHNICIAN TRAINEE

Knowledge of: Automotive equipment terminology and parts used in automotive maintenance and repair, how they interact, and where they are located; and preventative maintenance and repair procedures; service requirements of motor vehicles; and record-keeping procedures.

Ability to: Maintain both manual and computer records; make accurate arithmetical computations; establish and maintain cooperative relationships with those contacted in the work; and demonstrated skill in the operation and maintenance of motor vehicles.

AUTOMOTIVE TECHNICIAN I

Knowledge of: All of the above, and components of a vehicle, how they work and their interrelationships, and where they are located; the safe use of a large variety of electric and air-powered tools and their accessories, such as electric drill motors, air-powered impact wrenches, and various small hand tools; the proper size and type of wiring terminal or connector when making electrical connections; and the proper hardware needed to mount various pieces and specialty equipment.

Ability to: All of the above, and work under stress in an assembly line environment.

AUTOMOTIVE TECHNICIAN II

Knowledge of: All of the above, and tools, equipment, and methods used in testing and repairing automotive equipment and automotive accessories; vehicle component warranties, their limitations, and requirements; and safety equipment and procedures for hazardous materials.

Ability to: All of the above, and diagnose automotive equipment malfunctions and make or order necessary repairs; read automotive repair manuals, charts, invoices, and other related materials; analyze situations accurately and take effective action; project and evaluate cost effectiveness of maintenance and repair work; work independently; follow directions; effectively communicate verbally and in writing; operate tools and equipment used to diagnose and properly maintain a fleet of vehicles; and locate and secure repair-maintenance services of outside agencies that can perform the work which exceed the capabilities of your shop or are more efficient.

AUTOMOTIVE TECHNICIAN III

Knowledge of: All of the above, and principles of supervision; and the department's Equal Employment Opportunity policy.

Ability to: All of the above, and supervise and evaluate the work of others; and effectively contribute to the department's Equal Employment Opportunity objectives.

SPECIAL REQUIREMENTS

ALL LEVELS:

Possession of a valid driver license of the appropriate class issued by the Department of Motor Vehicles; and evidence of satisfactory arrest and driving records.

ADDITIONAL DESIRABLE QUALIFICATIONS

AUTOMOTIVE TECHNICIAN I

Possession of headlamp and brake adjustment certificates.

AUTOMOTIVE TECHNICIAN II

All of the above, and possession of a motor vehicle pollution control device installer's license.

DRUG TESTING REQUIREMENT

AUTOMOTIVE TECHNICIAN TRAINEE

AUTOMOTIVE TECHNICIAN I

AUTOMOTIVE TECHNICIAN II

Applicants for positions in this class are required to pass a drug-screening test. Testing of current employees who are applicants in an examination or who are transferring is permitted only if the person does not have a current appointment to a class for which drug testing is a requirement.

CLASS HISTORY

<u>Class</u>	<u>Date Established</u>	<u>Date Revised</u>	<u>Title Changed</u>
Automotive Technician Trainee	7/25/73	4/8/03	4/30/81
Automotive Technician I	7/25/73	4/8/03	4/30/81
Automotive Technician II <u>2/8/05</u>	7/25/73	4/8/03	4/30/81
Automotive Technician III	7/25/73	4/8/03	4/30/81

ITEM 11

TO: STATE PERSONNEL BOARD

FROM: DAPHNE BALDWIN, Manager
Policy Division

REVIEWED BY: LAURA AGUILERA, Assistant Executive Officer
Executive Office

CAROL ONG, Manager
Policy Development

SUBJECT: PROPOSAL TO RESCIND DELEGATED EXAMINATION AND OPEN TEMPORARY APPOINTMENT (TAU) AUTHORITY FROM THE SECRETARY OF STATE'S OFFICE AND TO REQUIRE SPB REVIEW AND OVERSIGHT OF ALL EXAMINATIONS AND OPEN TAU APPOINTMENTS FOR A 2-YEAR PERIOD

REASON FOR HEARING:

State Personnel Board (SPB) staff is recommending that delegated examination and open temporary appointment (TAU) authority of the Secretary of State's Office (SOS) be rescinded from and that SOS be required to seek prior SPB review and approval for all its future examinations and open TAU appointments for the next 2 years. This hearing is to allow the Board to hear from SOS and other interested members of the public before reaching a final decision on staff's recommendation.

BACKGROUND:

On January 25, 2005, SPB's Executive Officer released a final audit report of certain of SOS's personnel practices, policies, and processes. The report disclosed a number of inadequacies in SOS's selection and appointment processes for both CEA and non-CEA civil service classifications. (A copy of the final audit report is attached hereto as Attachment 1).

One of the most significant problems identified in the report was SOS's failure to maintain sufficient documentation in its examination and appointment files to demonstrate that it consistently complies with civil service laws, rules, and merit principles. The report documents improprieties and deficiencies in the way SOS publicized, conducted, and scored its examinations and reviewed applications for applicants' eligibility. The report also notes that SOS did not conduct job analyses before administering its examinations to insure that examinations are job-related and therefore designed to test a competitor's ability to do the job. Additional minor discrepancies were noted with regard to various appointment processes, such as

transfers and temporary appointments. The type and number of improprieties and deficiencies discovered raise concerns as to whether appointments made by SOS were based on merit.

Article VII, section 1(b) of the California Constitution requires that permanent appointments in state civil service be based on merit as ascertained by competitive examination. This merit principle is embodied in the State Civil Service Act and SPB rules that govern the examination and appointment process for all civil service positions.

Currently, the state's selection system is decentralized and provides for state departments, under the authority and oversight of SPB, to administer their own selection processes, including initial recruitment and publicity efforts, eligible list establishment, and hiring. SPB has delegated to SOS the authority to conduct examinations and make selection decisions for appointments to civil service classifications within SOS. SPB has also delegated to SOS the authority to make "open" TAU appointments; though departments are required to seek prior SPB approval for "promotional" TAU hires. Appointing powers, such as SOS, and all officers and employees to whom an appointing power delegates appointment authority, are responsible for ensuring adherence to the laws and SPB rules throughout the selection and appointment process. Failure to adhere to the laws and rules renders the state employer vulnerable to charges of improprieties in the selection process.

APPLICABLE LAW:

Article VII, section 1, subdivision (b) of the California Constitution provides:

In the civil service permanent appointment and promotion shall be made under a general system based on merit ascertained by competitive examination.

Government Code § 18900, subdivision (a) provides:

Eligible lists shall be established as a result of free competitive examinations open to persons who lawfully may be appointed to any position within the class for which these examinations are held and who meet the minimum qualifications requisite to the performance of the duties of that position as prescribed by the specifications for the class or by board rule.

Government Code § 19058, provides:

When there is no employment list from which a position may be filled, the appointing power, with the consent of the board, may fill the position by temporary appointment...When temporary appointments are made to permanent positions, an appropriate employment list shall be established for each class to which a temporary appointment is made before the expiration of the appointment.

ISSUES:

The following issues are before the Board for review:

Should the Board exercise its authority pursuant to Article VII, section 1(b) of the California Constitution and Government Code §§ 18900 and 19058 to:

Rescind the authority delegated to SOS to conduct examinations

Rescind the authority delegated to SOS to make open TAU appointments authority

and require SPB review and oversight of all SOS examinations and open TAU appointment for the next 2 years?

RECOMMENDATION:

SPB staff recommends that the Board adopt the following resolution rescinding SOS's delegation and requiring SPB review and oversight of future examinations given and open TAU appointments made by SOS.

WHEREAS, Article VII, section 1(b) of the California Constitution provides, "In the civil service permanent appointment and promotion shall be made under a general system based on merit ascertained by competitive examination"; and

WHEREAS, Government Code § 18900, subdivision (a) provides, "Eligible lists shall be established as a result of free competitive examinations open to persons who lawfully may be appointed to any position within the class for which these examinations are held and who meet the minimum qualifications requisite to the performance of the duties of that position as prescribed by the specifications for the class or by board rule"; and

WHEREAS, Government Code § 19058 provides, "When there is no employment list from which a position may be filled, the appointing power, with the consent of the board, may fill the position by temporary appointment... When temporary appointments are made to permanent positions, an appropriate employment list shall be established for each class to which a temporary appointment is made before the expiration of the appointment;" and

WHEREAS, in Article VII, section 3(a) of the California Constitution, the people of California entrusted the oversight of the merit principle and enforcement of the civil service laws to the State Personnel Board (SPB); and

WHEREAS, on January 25, 2005, SPB's Executive Officer released a personnel audit report documenting serious examination and appointment improprieties and deficiencies in the personnel practices, policies and processes of the Secretary of State's Office (SOS); and

WHEREAS, the documented improprieties and deficiencies in SOS's examination and appointment processes raise concerns about whether SOS has failed to exercise properly its delegated examination authority by failing to conduct examinations that were truly open, competitive and job-related and accurately assessed the knowledge, skills, abilities, and qualifications of competitors; and

WHEREAS, SOS's failure to administer an examination for an open TAU appointment within the 9-month TAU period as required by Government Code § 19058 raises concerns about whether SOS has failed to administer properly the open TAU appointment process delegated to it; and

WHEREAS, the Board finds that SOS's personnel practices did not conform to acceptable standards and thresholds;

THEREFORE, BE IT RESOLVED AND ORDERED, that:

1. The authority of the Secretary of State's Office (SOS) to administer all examinations on a decentralized basis is rescinded from February 8, 2005 through February 7, 2007, thereby requiring State Personnel Board (SPB) prior approval of all aspects of future selection;
2. SPB's Merit Employment and Technical Resources Division shall monitor all examinations given SOS for 2 years beginning February 8, 2005 through February 7, 2007, to ensure that SOS's examinations and candidate selections are administered in accordance with the merit principle. During this time period, SOS shall provide SPB with at least 30 days' prior notice of all examinations that it intends to administer and SPB staff shall provide SOS with technical assistance, guidance, and/or oversight as needed.
3. SPB's Policy Division shall review all open temporary appointment (TAU) requests from SOS for 2 years beginning February 8, 2005 through February 7, 2007 to ensure that the TAU is appropriate, meets minimum qualifications for the classification, and comports with civil service laws and rules. During this time period, SOS shall provide SPB with at least 30 days' prior notice of proposed open TAU appointments.
4. At the end of the 2-year period, the Board shall review whether the authority of conduct examinations and make open temporary appointments should again be delegated to SOS.

**ATTACHMENT 1 FOR THIS ITEM
IS AVAILABLE UPON REQUEST.
PLEASE CALL THE SECRETARIAT'S
OFFICE AT (916) 653-0429 OR
TDD (916) 654-2360**

**ATTACHMENT 1 MAY ALSO BE
PRINTED FROM SPB'S WEBSITE AT
WWW.SPB.CA.GOV**

Click on

[SPB releases the Final Personnel Audit Report of the Secretary of State, January 2005](#)

ITEM 16

Memorandum

Date: October 22, 2004

To: Jennifer Roche
:
Policy Consultation
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

Subject : **STAFF CALENDAR ITEM - CLASSIFICATION CHANGES -
NURSING CONSULTANT, PROGRAM REVIEW**

SUMMARY OF ISSUES:

The existing Nurse Consultant II classification provides complex nursing and program consultation and technical assistance to public and private agencies on the provision of health services. As a result of *Plata vs. Davis*, the nursing program within the Department of Corrections (CDC) was expanded and redefined and more registered and public health nurses were added causing a significant increase in nursing staff. The outcome of this expansion resulted in the scope of the duties performed by the Nurse Consultant II to be broadened. Therefore, the current duties and scope of Nurse Consultant II responsibilities are not accurately reflected in the Nurse Consultant II classification. In consultation with the Department of Personnel Administration (DPA), DPA has suggested that duties performed by the department's Nurse Consultant II incumbents are most closely aligned with the duties and responsibilities of the existing Nursing Consultant, Program Review classification. If this request to broaden the scope of the Nursing Consultant, Program Review classification is approved, current Nurse Consultant II incumbents would be transitioned utilizing the examination process and their duties, responsibilities, and salaries would be correctly reflected in the Nursing Consultant, Program Review classification.

BACKGROUND:

The Nurse Consultant classifications were originally assigned to assist each region in California with the orientation of the Nursing Directors, provide assistance with investigations, and help with policy development. At that time, there was one Nurse Consultant for each of the four regions. In the last two years, especially since the implementation of *Plata vs. Davis*, the Nurse Consultants' duties and responsibilities have expanded as the Department of Corrections' health care system has evolved. The Nurse Consultants are now

required to have extensive professional experience in administration and consultation and have finely tuned teaching and facilitation skills. The Nurse Consultants now provide overall consultation in all health care services and program consultation in the planning, development, implementation, evaluation, and monitoring of health services, programs, and projects. Additionally, they assist with the development and evaluation of standards, policies, procedures, and the development and co-ordination of training and education of nursing and other health-related personnel who are responsible for the delivery of health care services. The Nurse Consultants are responsible for implementing the Inmate Medical Services Policies and Procedures and all State licensing standards. The Nurse Consultants require critical thinking, responsible decision-making skills, excellent facilitation and communication skills, and extensive knowledge in education and teaching methodologies.

RECOMMENDED CHANGE:

CDC recommends revising the current Nursing Consultant, Program Review specification by broadening the definition and typical tasks of the classification. This change would bring the duties currently performed by the Nurse Consultant IIs more in line with the appropriate classification of Nurse Consultant, Program Review classification. Additionally, this specification action revises the Nursing Consultant, Program Review minimum qualifications to allow individuals who have three years of experience as a nursing consultant eligibility to examine for the Nurse Consultant, Program Review. CDC believes two years of experience as a nursing consultant is equivalent to two years of administrative experience at a level of responsibility comparable to an assistant coordinator of nursing services because the nurse consultants within the department through their consultant and quality management roles, based upon duty statements: (1) provide direction to nursing program supervisors on nursing operations; and (2) interpret standards in coordination with the department's total health care services program in the area of nurse staff organization, continuity of patient care, admission, and discharge planning.

JUSTIFICATION:

As stated above, because of the implementation of court mandates resulting from *Plata vs. Davis*, the entire nursing staff of CDC was restructured which led to additional responsibilities and different typical tasks for the Nurse Consultant IIs at CDC. By broadening the scope of the Nursing Consultant, Program Review classification, current Nurse Consultant II's tasks and responsibilities would be

reflected in the most equitable classification and would help to maintain CDC's health care system.

The following supervisory employee organizations were contacted and did not oppose the revisions:

Bonnie Morris, Association of California State Supervisors
Dennis Batchelder, California Association of State Managers and Supervisors
Larry Svetich, Corrections Ancillary Staff Supervisors
Pat Le Sage, California Correctional Supervisors Organization, Inc.

CAROL HOSINO
Personnel Operations Analyst – Special Projects

Enclosure

APPROVAL
(Below To Be Completed by SPB Staff)

SPB Staff Signature:
Title:
Effective Date:

CALIFORNIA STATE PERSONNEL BOARD

SPECIFICATION

Schematic Code: TT30
Class Code: 8327
Established: 9/2/63
Revised: 9/25/90
Title Changed: 9/25/90

NURSING CONSULTANT, PROGRAM REVIEW

DEFINITION

Under direction, to review nursing programs in the developmental centers, correctional facilities, and/or State mental hospitals; to make reports and recommendations on the status of nursing services; to evaluate and recommend on nursing care standards; and to do other related work.

TYPICAL TASKS

As assigned, reviews the nursing services operations in the department's developmental centers for the developmentally disabled, correctional facilities, or State hospitals for the mentally disabled; consults with appropriate administrators, supervisors, and staff regarding nursing practices, procedures, and standards; reviews unit/ward management, the nursing care of clients/patients, and nursing techniques and procedures; reviews organization, staffing, training, and assignment of personnel in nursing services; reviews operations in light of departmental standards and policies; evaluates the current status of nursing programs and prepares reports on findings; recommends improvements and revisions in nursing standards, policies, or procedures and suggests methods of implementation; recommends use of specialized consultation as needed; and prepares various reports and correspondence.

MINIMUM QUALIFICATIONS

Possession of a valid license to practice as a registered nurse in California. (Applicants who do not possess such a license will be admitted to the examination, but they must secure such a license before they will be considered eligible for appointment.)

and

Experience: Three years of progressively responsible experience in nursing/psychiatric nursing, which must have included in addition to direct care of developmentally disabled clients and/or psychiatric patients; and/or inmates or youthful offenders:

1. Two years of administrative experience at a level of responsibility comparable to an assistant coordinator of nursing services in a large facility for the developmentally disabled and/or hospital for the mentally disabled or acute/subacute care correctional facility; or a Supervising Registered Nurse in a large correctional facility. and
 2. One year of experience as a nursing consultant, or as a director of nursing education/psychiatric nursing in an accredited State mental hospital/developmental center or acute care correctional facility or nurse training program with responsibility for instruction of students at several levels of nursing practice.
- or
2. Three years of experience as a nursing consultant.
- and

Education: Graduation from an accredited school of nursing, possession of a baccalaureate degree, and possession of a master's degree, preferably in nursing administration. (One year of additional experience in an administrative or consultative capacity may be substituted for the master's degree.)

KNOWLEDGE AND ABILITIES

Knowledge of: Theory and practice of psychiatric/developmental disabilities and general nursing; developmental center, and State mental hospital, and/or State correctional facility organization; management and procedure, particularly in relation to nursing services; current developments in the field of general/psychiatric/developmental disabilities nursing; personnel management; principles, methods and objectives of training nursing personnel; accepted practices of other health professions; current trends in mental health/developmental disabilities; research methods and techniques; ~~department's Affirmative Action Program objectives; a manager's role in the Affirmative Action Program and the processes available to meet affirmative action objectives~~ a manager's/supervisor's responsibility for promoting equal opportunity in hiring and employee development and promotion, and for maintaining a work environment that is free of discrimination and harassment.

Ability to: Evaluate the effectiveness of a broad nursing/psychiatric nursing education program; evaluate complex and varied administrative problems and take appropriate action; work effectively with a variety of administrators and others responsible for line operations; interpret mental health/developmental disability programs to individuals and groups; communicate effectively; ~~effectively contribute to the department's affirmative action objectives~~ promote equal opportunity in employment and maintain a work environment that is free of discrimination and harassment.

SPECIAL PERSONAL CHARACTERISTICS

Demonstrated leadership ability; sympathetic and objective understanding of the problems of the mentally/developmentally disabled and/or empathetic understanding of patients of a State correctional facility; willingness to work in a developmental center, State mental hospital, and/or a State correctional facility; willingness to travel; tact, alertness, keenness of observation, patience, and emotional stability.